

AMENDED IN SENATE JULY 27, 1998
AMENDED IN SENATE JULY 7, 1998
AMENDED IN ASSEMBLY APRIL 28, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2674

Introduced by Assembly Member Cardenas

February 23, 1998

An act to amend Section 23166 of the Vehicle Code, relating to driving under the influence.

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, as amended, Cardenas. Driving under the influence: penalties.

Existing law provides that if the court grants probation to any person convicted of a 2nd violation of the law prohibiting driving while under the influence of any alcoholic beverage or drug, or both, the court may impose as a condition of probation, among other things, that the person be confined in the county jail for at least 48 hours.

This bill would increase that *minimum* county jail time to at least 96 hours, ~~at least 48 hours of which would be required to be continuous~~ *to be served as specified*. By increasing the penalty for an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated

by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23166 of the Vehicle Code is
2 amended to read:

3 23166. If the court grants probation to any person
4 punished under Section 23165, in addition to the
5 provisions of Section 23206 and any other terms and
6 conditions imposed by the court, the court shall impose
7 as conditions of probation that the person be subject to
8 either subdivision (a) or (b), as follows:

9 (a) Be confined in the county jail for at least 10 days
10 but not more than one year, and pay a fine of at least three
11 hundred ninety dollars (\$390) but not more than one
12 thousand dollars (\$1,000). The person's privilege to
13 operate a motor vehicle shall be suspended by the
14 Department of Motor Vehicles pursuant to paragraph (3)
15 of subdivision (a) of Section 13352.

16 (b) All of the following:

17 (1) Be confined in the county jail for at least 96 hours,
18 ~~at least 48 hours of which shall be continuous~~, but not
19 more than one year. *A sentence of 96 hours of*
20 *confinement shall be served in two increments consisting*
21 *of a continuous 48 hours each. The two 48-hour*
22 *increments may be served nonconsecutively.*

23 (2) Pay a fine of at least three hundred ninety dollars
24 (\$390) but not more than one thousand dollars (\$1,000).

25 (3) If the person gives proof of financial responsibility,
26 as defined in Section 16430, to the Department of Motor
27 Vehicles, have the privilege to operate a motor vehicle be
28 restricted by the Department of Motor Vehicles pursuant
29 to Section 13352.5, for the duration of the treatment
30 program prescribed in paragraph (4), to necessary travel
31 to and from that person's place of employment and to and

1 from the applicable treatment program described in
2 paragraph (4). If driving a motor vehicle is necessary to
3 perform the duties of the person's employment, the
4 restriction also shall allow the person to drive in that
5 person's scope of employment.

6 Except as is specified in subparagraph (B) of paragraph
7 (4), if the person gives proof of financial responsibility to
8 the Department of Motor Vehicles, the Department of
9 Motor Vehicles shall not suspend the person's privilege to
10 operate a motor vehicle under Section 13352, as provided
11 in Section 13352.5, unless the offense occurred in a vehicle
12 requiring a driver with a class A or class B driver's license
13 or with an endorsement prescribed in Section 15278.

14 (4) Either of the following:

15 (A) Enroll and participate, for at least 18 months
16 subsequent to the date of the underlying violation and in
17 a manner satisfactory to the court, in a program licensed
18 pursuant to Chapter 9 (commencing with Section 11836)
19 of Part 2 of Division 10.5 of the Health and Safety Code,
20 as designated by the court. The person shall complete the
21 entire program subsequent to, and shall not be given any
22 credit for any program activities completed prior to, the
23 date of the current violation. The program shall provide
24 for persons who cannot afford the program fee pursuant
25 to paragraph (2) of subdivision (b) of Section 11837.4 of
26 the Health and Safety Code in order to enable those
27 persons to participate.

28 (B) Enroll and participate, for at least 30 months
29 subsequent to the date of the underlying violation and in
30 a manner satisfactory to the court, in a program licensed
31 pursuant to Chapter 9 (commencing with Section 11836)
32 of Part 2 of Division 10.5 of the Health and Safety Code.
33 The person shall complete the entire program
34 subsequent to, and shall not be given any credit for any
35 program activities completed prior to, the date of the
36 current violation. A person ordered to treatment
37 pursuant to this subparagraph shall apply to the court or
38 to a board of review, as designated by the court, at the
39 conclusion of the program to obtain the court's order of
40 satisfaction. Only upon the granting of that order of

1 satisfaction by the court may the program issue its
2 certificate of successful completion and report the
3 completion to the Department of Motor Vehicles. A
4 failure to obtain an order of satisfaction at the conclusion
5 of the program is a violation of probation. In order to
6 enable all required persons to participate, each person
7 shall pay the program costs commensurate with the
8 person's ability to pay as determined pursuant to Section
9 11837.4 of the Health and Safety Code. No condition of
10 probation required pursuant to this subparagraph is a
11 basis for reducing any other probation requirement or for
12 avoiding the mandatory license revocation provisions of
13 paragraph (5) of subdivision (a) of Section 13352.

14 SEC. 2. No reimbursement is required by this act
15 pursuant to Section 6 of Article XIII B of the California
16 Constitution because the only costs that may be incurred
17 by a local agency or school district will be incurred
18 because this act creates a new crime or infraction,
19 eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section
21 17556 of the Government Code, or changes the definition
22 of a crime within the meaning of Section 6 of Article
23 XIII B of the California Constitution.

24 Notwithstanding Section 17580 of the Government
25 Code, unless otherwise specified, the provisions of this act
26 shall become operative on the same date that the act
27 takes effect pursuant to the California Constitution.

